

**IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF TENNESSEE
AT NASHVILLE**

**JAMES ARCHAMBEAULT and
JULIE ARCHAMBEAULT,**

Plaintiffs,

v.

**WYNDHAM VACATION OWNERSHIP, INC. and
WYNDHAM VACATION RESORTS, INC.,**

Defendants.

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) **Civil Action No. 3:20-cv-01044**
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) **JUDGE TRAUGER**
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MOTION TO COMPEL AND PETITION TO SHOW CAUSE

Defendants Wyndham Vacation Resorts, Inc. and Wyndham Vacation Ownership, Inc. (collectively, “Defendants”), by and through undersigned counsel, submit this Motion to Compel and Petition to Show Cause (“Motion”), respectfully seeking entry of an Order compelling non-party Mortgage Wellness Solutions, LLC (“MWS”) to comply with the Subpoena *Duces Tecum* (“Subpoena”) and show cause as to why it should not be held in contempt for failure to comply with the Subpoena. In support of this Motion, Defendants are submitting a Memorandum in Support of Motion to Compel and Petition to Show Cause herewith. In further support of this Motion, the Defendants state as follows:

1. Plaintiffs filed this civil suit on December 5, 2020.
2. Defendants issued the Subpoena on December 2, 2021. A true and exact copy of the Subpoena is attached hereto as **Exhibit A**.
3. MWS is a domestic limited liability company with a registered agent, Northwest Registered Agent Inc., located in Memphis, Tennessee. Defendants served the Subpoena on

MWS's registered agent on December 2, 2021. A true and exact copy of the Return of Service on MWS's registered agent is attached hereto as **Exhibit B**.

4. Rule 45 of the Federal Rules of Civil Procedure sets forth specific methods to (1) command production of documents, electronically stored information, or tangible things and (2) permit the inspection of premises. *See* Fed. R. Civ. P. 45(a)(1)(B).

5. A person commanded to produce documents or permit inspection may serve a written objection to the subpoena before the earlier of time specified for compliance of fourteen (14) days after the subpoena is served. Fed. R. Civ. P. 45(d)(2)(B).

6. A court may hold in contempt a person who fails without adequate excuse to obey the subpoena after being served. Fed. R. Civ. P. 45(g).

7. Defendants properly served MWS on December 2, 2021. *See* Subpoena, **Exhibit A**. The date specified for compliance with the Subpoena was December 20, 2021. MWS's deadline to object or respond to the Subpoena was December 16, 2021. *See* Fed. R. Civ. P. 45. MWS did not object.

8. MWS did not comply with the Subpoena and produce documents responsive to the requests in the Subpoena on or before December 20, 2021, either. *See* Subpoena, **Exhibit A**.

9. Accordingly, MWS has failed to comply with Rule 45 of the Federal Rules of Civil Procedure, notwithstanding the fact that it was advised of its obligations under the foregoing rule in the Subpoena.

10. Therefore, Defendants respectfully submit that this Court order MWS to comply with, and respond to, Defendants' Subpoena. *See* Fed. R. Civ. P. 45. Defendants further ask that this Court order MWS to show cause as to why it did not respond to the Subpoena by the December 20, 2021 deadline.

WHEREFORE, Defendants Wyndham Vacation Resorts, Inc. and Wyndham Vacation Ownership, Inc. respectfully request that this Court enter an Order compelling non-party Mortgage Wellness Solutions, LLC to comply with the Subpoena *Duces Tecum* and show cause as to why it should not be held in contempt for failure to comply with the Subpoena.

Respectfully submitted this 12th day of January, 2022.

**BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.**

/s/ Joy Boyd Longnecker

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CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of January, 2022, a true and exact copy of the foregoing **Defendants' Motion to Compel and Petition to Show Cause** was filed electronically via the Court's CM/ECF electronic filing system, and was served on the following counsel of record:

Aubrey Givens, Esq.
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Attorney for Plaintiffs

s/ Joy Boyd Longnecker

Joy Boyd Longnecker